

the earliest moments of conception as children with the same rights as the adult women who are carrying them. The implication is that anyone who does not share the metaphysical slant of the radical antichoice movement that a two-celled zygote is a person on exactly the same basis and with the same rights as a child or adult must secretly favor infanticide.

This bill, by making the destruction of a fetus or even a zygote, a separate crime of murder without reference to the actual harm to the pregnant woman speaks volumes about that view. If causing a miscarriage is murder, then by implication so is abortion. Even if the sponsors have papered over this premise with language to the contrary, no one should be under any illusions that this is the real and only purpose of this bill.

Let us take the sponsors at their word. In the last Congress, the report of the majority of the Committee on the Judiciary made clear that their concern was that "except in those States that recognize unborn children as victims of such crimes, injuring or killing an unborn child during the commission of a violent crime has no legal consequence whatsoever," and that the bill's purpose was "to narrow the gap in the law by providing that an individual who kills an unborn child during the commission of certain Federal crimes of violence will be guilty of a separate offense." Providing such a separate offense clearly recognizes the fetus as the victim of the violence, a proposition that is at odds with the holding of the Supreme Court in reading the Constitution.

In fact, this legislation marks a major departure from Federal law by elevating the legal status of a fetus at all stages of prenatal development to the same as that of the pregnant woman or any other person who is the victim of a crime. This is wrong, Mr. Speaker. It is against the whole scheme of *Roe v. Wade*, which recognizes a greater ability of the States to regulate, a greater interest in regulation in later stages of pregnancy, precisely because the Constitution recognizes that a fetus is not a full-fledged person from the moment of conception.

For anyone still in doubt about the real purpose of the bill, the National Right to Life Committee, in a memo distributed to members of the Committee on the Judiciary, laid it out:

They say that such a one-victim amendment, talking about the Lofgren amendment, would codify the fiction that when a criminal assailant injures a mother and kills her unborn child, there has been only a compound injury to the mother but no loss of any human life. The one-victim substitute would also enact the notion that when a criminal assailant kills a pregnant woman, the assailant should be punished once for killing the mother and then again for depriving her of her pregnancy, but if there is only one victim, it shows the difference between us.

So the radical antichoice groups acknowledge that the only difference of opinion here is not how much to punish these offenses, because both this bill and the Lofgren substitute would give heavy punishment, although under certain circumstances, the Lofgren substitute would give much heavier punishment than would this bill; the real difference is that this bill recognizes the crime of murder against a fetus or a zygote.

The bill is also unclear, as one of the majority's witnesses testified in the committee hearings. Does it cover only an embryo after implantation or at conception? Put another way, is it only murder if you cause the miscarriage of a viable fetus? Or is it also murder if you cause the miscarriage of a not-yet-viable fetus or of a two-celled zygote at the moment of conception?

I think the sponsor of this legislation, the gentleman from South Carolina (Mr. GRAHAM), should tell us what the bill means. It is a simple question that should have a simple, straightforward answer. Yet I used my entire 5 minutes at the Committee on the Judiciary trying to get an answer from the gentleman from South Carolina. He would not give me an answer.

So I will ask him now, yes or no, is it murder to murder a two-celled zygote under this bill or is it not?

Mr. GRAHAM. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from South Carolina.

Mr. GRAHAM. Mr. Speaker, as I said in the Committee on the Judiciary, the language that we adopted in the bill is exactly what exists—

Mr. NADLER. Yes or no. I do not have the time to have the whole explanation that is taken from the language of State law. Is causing a miscarriage murder of a two-celled zygote or not under this bill? Yes or no.

Mr. GRAHAM. When the fetus attaches to the womb, that is what the prosecutor has to prove.

And if I may answer your question, the definition used in this bill is the exact same definition that the House endorsed and passed 417-0 that the gentleman from New York voted for. This is the same definition that he voted for July 25, 2000.

Mr. NADLER. Reclaiming my time, he will not give a yes or no answer because he cannot.

One last sentence on this whole thing. This bill is not about violence against women. That is why all the violence against women groups are opposed to the bill. This bill is simply to undermine *Roe v. Wade*, and it will not succeed.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2½ minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, look at this picture of Tracy Marciniak and her dead son. This little boy is not a zygote, not a blastocyst, not an embryo, not a fetus, not anything but a little baby, a little child who was brutally

killed. His name was Zachariah. He was killed by his father, a man by the name of Glendale Black, 4 days before he was due to be born. He was beaten in the womb where he bled to death. And his father got away with it.

Yes, Glendale Black went to jail, but not because he killed Zachariah. He went to jail for assaulting Zachariah's mother. At the time, it was not a crime to kill a woman's baby in Wisconsin as long as he did it before he was born. If he had done it 4 or 5 days later, he might have gotten life imprisonment. Instead, he is now eligible for parole.

Wisconsin has since changed its law. If Tracy's ex-husband committed the same crime today, he would be charged with killing her child as well as assaulting her. But the Federal Government has no such law. In Federal jurisdictions, that man could get away with killing again.

Look again at this picture. How can anyone say that this child is not a human being? How can anyone say that Zachariah should not have the same right to live as you and I have? How can anyone say that the crime Zachariah's father committed was not more than just assault, but also taking of human life? Or as his mother Tracy herself says, "If you really think that nobody died that night, then vote for the one-victim amendment. But please remember Zachariah's name and face when you decide."

Mr. Speaker, America's first war was fought to prove that each of us has an inalienable right to life as well as liberty and pursuit of happiness. We need to affirm that we still believe in these principles. We need to show that we still believe in God-given rights, the right to life. We need to pass this good legislation. We need to pass it unanimously. And we should reject the so-called one-victim amendment. Pretending that nobody died the night Glendale Black beat his wife and killed his son is to deny reality. Even worse, it is to turn our backs on everything America stands for.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 5 minutes to the gentlewoman from New York (Mrs. MALONEY).

Ms. LOFGREN. Mr. Speaker, will the gentlewoman yield?

Mrs. MALONEY of New York. I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Speaker, I thank the gentlewoman for yielding.

I wanted to comment on the terrible crime that we just had a discussion of from the prior speaker. Clearly that was a horrible thing, and the monster who did that is now free. That is the wrong thing. That should be changed.

Unfortunately, H.R. 503 would not change a darned thing about that case. I understand from the mother that part of the problem with the prosecution was that the prosecutors could not prove the intent to harm the unborn child. Under H.R. 503, there is also an intent requirement. Otherwise, absent intent, one is limited to the term of